

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

THOMAS JAMES ROBERTS,)
)
Petitioner)
)
vs.) Case No. 5:12-cv-01080-SLB-HGD
)
)
WILLIE THOMAS, Warden, and)
THE ATTORNEY GENERAL OF)
THE STATE OF ALABAMA,)
)
Respondents)

MEMORANDUM OPINION

On May 24, 2012, the magistrate judge's report and recommendation was entered and the parties were allowed therein fourteen (14) days in which to file objections to the recommendations made by the magistrate judge. On June 4, 2012, petitioner filed objections to the magistrate judge's report and recommendation.

In his objections, petitioner asserts that the claims in the instant petition for writ of habeas corpus are based on newly discovered evidence and that such evidence establishes by clear and convincing evidence that, but for the constitutional error claimed, no reasonable factfinder would have found him guilty of the underlying offense. However, a review of his allegations in this action and his allegations in the

previous habeas corpus petitions he has filed demonstrates that his claims are not based on newly discovered evidence and that, in fact, petitioner has raised the same claims in previous petitions.

After careful consideration of the record in this case and the magistrate judge's report and recommendation and the petitioner's objections thereto, the court hereby ADOPTS the report of the magistrate judge. The court further ACCEPTS the recommendations of the magistrate judge that the petition for writ of habeas corpus be dismissed pursuant to 28 U.S.C. § 2244(b)(1) and (2) and, in the alternative, for failure to comply with 28 U.S.C. § 2244(b)(3)(A).

A separate order in conformity with this Memorandum Opinion will be entered contemporaneously herewith.

DONE this 9th day of September, 2012.

Sharon Lovelace Blackburn
SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE